IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.16690 of 2004

Between:

J.R. Nagar Residents Welfare Association

Registered Under Act 35 of 2001 with Number 936 of 2004,
Mudhurawada, Visakhapatnam, rep. by its Secretary, Konati Veera Venkata Satya Naga Vijaya Kishore, S/o. Samba Siva Rao,

R/o. D.No. 7-153/3, J.R.Nagar, Madhurwada, Visakhapatnam.

..... PETITIONER

AND

1 VUDA, rep. by its Vice-Chairman.
2 Executive Officer, Madhurawada Grama Panchayat,

Visakhapatnam.
3 MRO, Chinnagadali Rural Mandalam, Visakhapatnam.
4 Koppu Venkata Hanumantha Rao, S/o. Surya Prakash Rao,
R/o. D.No. 28-15-22, Suryabagh, Visakhapatnam.
5 Koppu V. Chirangeev Rao, S/o Father name not known to the

petitioner, R/o. D.No. 28-15-22, Suryabagh, Visakhapatnam.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ in the nature of a Writ of Mandamus or any other appropriate Writ,

direction, order or orders declaring the action of the respondents 1 to 3 in not taking action against the action of the un-official respondents 4 and 5 in blocking the only way of J.R. Nagar colony, Madurawada to reach Akkanapallem Road and the National Highway as arbitrary, illegal and void.

Counsel for the Petitioner: Mr.M.P.CHANDRAMOULI

Counsel for Respondent No.1: Ms. SUMALINI REDDY

Counsel for Respondent Nos.2 & 3: G.P. FOR REVENUE

Counsel for Respondent Nos.4 & 5: Mr. K.V.SUBRAHMANYA NARASU.

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

This writ petition has been filed by J.R.Nagar Residents Welfare Association duly registered under the A.P. Societies Registration Act, 2001 (Act No.35 of 2001) with Registration No.936 of 2004, through its Secretary.

The grievance made by the writ petitioner is inaction on the part of respondents 1 to 3 in taking action against respondents 4 and 5 alleging that they are encroaching into the layout road of J.R. Nagar Colony in spite of injunction and thus prayed that direction be issued to respondents 1 and 2 to take action against respondents 4 and 5, and further direction, during the pendency of the writ petition, not to obstruct the residents of J.R.Nagar Colony, Madhurawada from passing through the approach road situated on the southern side of the colony connecting Akkannapalem Road.

On 22nd September 2004, Rule Nisi was issued, and on interim application, direction was issued to respondents 1 to 3 to ensure that no blockage of any type takes place which might obstruct the residents of J.R. Nagar Colony, Madhurawada, Visakhapatnam. Now WVMP.No.3127 of 2004 is filed by respondents 4 and 5 in the writ petition bringing to the notice of the Court that O.S.No.756 of 2004 was filed in the Court of II Additional Senior Civil Judge, Visakhapatnam, against the President of the petitioner association impleading therein the Executive Officer of the Madhurawada Gram Panchayat, and in the said suit I.A.No.495 of 2004 was filed praying for injunction against the President of the association. On 12th July 2004, the learned Senior Civil Judge granted injunction, and the President of the association was aware of the injunction order and suppressing the said fact, writ petition was filed on 13th September 2004, and interim order was obtained.

Learned counsel for respondents 4 and 5 states that in the garb of the interim order in the writ petition, the petitioner association is laying road, and our attention has been drawn to some photographs shown across the bar.

We make it clear that there is no direction issued and no permission was granted to the petitioner association to make construction. In view of the fact that there is already a suit filed by respondents 4 and 5 for injunction against the President of the petitioner association, where disputed questions of fact and law are involved, we see no reason to entertain the writ petition as public interest litigation.

Learned counsel for the petitioner states that respondents 4 and 5 have not impleaded in the suit J.R. Nagar Residents Welfare Association, which in fact was registered only on 7th July 2004. Therefore, we will direct that J.R.Nagar Residents Welfare Association, duly registered, may be impleaded as party defendant in the suit by respondents 4 and 5 by filing a formal application. Learned counsel also states that he will raise no objection for impleadment of the association as a party to the suit and learned counsel for respondents 4 and 5 and the writ petitioner agree that the parties will not change the nature of the land in question pending adjudication of the issue by the civil Court. We further direct that till application for interim relief is heard and decided by the civil Court, none of the parties would change the nature of the land in question, and *status quo* as of today shall continue to be maintained. Further orders will be obtained by the parties from the civil Court.

The writ petition stands disposed of accordingly.

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(DEVINDER GUPTA, C.J.)

16th November 2004.

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(C.V.RAMULU, J.)

Note: Communicate operative portion

of the order by wire at party's cost.

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To

1. The Vice-Chairman, VUDA, Visakhapatnam.

2. The Executive Officer, Madhurawada Grama Panchayat,

Visakhapatnam.
3. The MRO, Chinnagadali Rural Mandalam, Visakhapatnam.
4. Two C.Cs to Govt. Pleader for Revenue, High Court Bldgs., Hyderabad (OUT).

5. Two C.D. copies.